

1 **(October 3, 2022)**

2 ***Indian Preference and Tribal Ordinances***

3 This project is located on the \*\*\* \$1\$ \*\*\*. It is the Contractor's responsibility to contact  
4 the person and/or office listed in this special provision to determine whether any tribal  
5 laws or taxes apply. If the tribal laws and taxes do apply, the Contractor shall comply  
6 with them in accordance with Section 1-07.1. For informational purposes only, the Work  
7 on this project that falls within Tribal Lands is shown on the Summary of Quantities in  
8 Group(s) \*\*\* \$2\$ \*\*\*.

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10 Tribal Employment Rights Ordinances (TEROs) may utilize a variety of tools to  
11 encourage Indian employment. These tools may include, but are not limited to, TERO  
12 fees, Indian hiring preference, Indian-owned business subcontracting preference and/or  
13 an Indian training requirement. Other requirements may be a Tribal business license, a  
14 required compliance plan and/or employee registration requirements. Every tribe is  
15 different and each may be willing to work cooperatively with the Contractor to develop a  
16 strategy that works for both parties. For specific details, the Contractor should contact  
17 \*\*\* \$3\$ \*\*\*.

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19 The state recognizes the sovereign authority of the tribe and supports the tribe's efforts  
20 to enforce its rightful and legal ordinances and expects the Contractor to comply and  
21 cooperate with the tribe. The costs related to such compliance shall be borne solely by  
22 the Contractor, who is advised to contact the tribal representative listed above, prior to  
23 submitting a bid, to assess the impact of compliance on the project.

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25 Although Indian preference cannot be compelled or mandated by the Contracting  
26 Agency, there is no limitation whereby voluntary Contractor or subcontractor-initiated  
27 preferences are given, if otherwise lawful. 41 CFR 60-1.5(a)7 provides as follows:

28  
29 Work on or near Indian reservations --- It shall not be a violation of the equal  
30 opportunity clause for a construction or non-construction Contractor to extend a  
31 publicly announced preference in employment to Indians living on or near an Indian  
32 reservation in connection with employment opportunities on or near an Indian  
33 reservation. The use of the word *near* would include all that area where a person  
34 seeking employment could reasonably be expected to commute to and from in the  
35 course of a work day. Contractors or subcontractors extending such a preference  
36 shall not, however, discriminate among Indians on the basis of religion, sex, or  
37 tribal affiliation, and the use of such a preference shall not excuse a Contractor  
38 from complying with the other requirements as contained in the August 25, 1981  
39 Department of Labor, Office of Federal Contract Compliance Programs,  
40 Government Contractors Affirmative Actions Requirements.